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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BUCZINSKI, STEPHEN C

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 02/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 21 NOV. 2001
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-59 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-59 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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A further review by PTO reissue examiners has uncovered certain inadequacies in the present application and claims as detailed below.

1. Claims 1-59 are objected in that the form of the amendments to the present claims is an issue still. While a clean copy and a separate marked-up copy are not required in reissue applications, the complete set of claims submitted on 21 November 2001 may be used as a basis for what still needs to be put into proper reissue form. The final disposition of the claims must not show ~~and~~ text that was added, but which is no longer required. An example is in claim 1, line 27, of the final complete set of claims filed on 21 November 2001, where "and said" is bracketed and underlined. Since these terms appeared in the patented claim 1 they should not be bracketed and underlined to reflect the current prosecution history of amendments. Since claim 4 also includes formal red ink inserts to the claim, this claim and all of the claims should again be resubmitted as formal replacements, not just a "clean copy", incorporating essentially what the "clean copy" achieved in the amendment of 21 November 2001, but which would formally introduce the set as a replacement with the above noted corrections.

2. Claims 1-59 are rejected under 35 USC 251 for a defective reissue oath/declaration. The declaration is defective for not identifying the foreign application on which foreign priority is being claimed by specifying the application number, country, day, month, and year of its filing under 37 CFR 1.63(c) in order to retain priority to the earlier effective filing date. A supplemental oath is required. Also, the supplemental oath must state that for any error corrected after the filing of all declarations currently in the reissue application, "[T]hat every such error arose without any deceptive intention on the part of the applicant." under 37 CFR 1.175(b)(1).

3. As to the drawings, it is regretted that the transfer of drawings from the parent files as was requested earlier is no longer permitted and that new drawings must now be submitted.

4. Claims 44-47 and 55 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 44, line 15, there is no antecedent basis for "said mixer".

Claim 55 is vague and indefinite for not relating the "first lock key data signal" to any function in the rest of the claim. Also, "said audio signal" on line 11 has no antecedent basis.

5. Claims 20 and 44-58 are rejected as being drawn to recaptured subject matter.

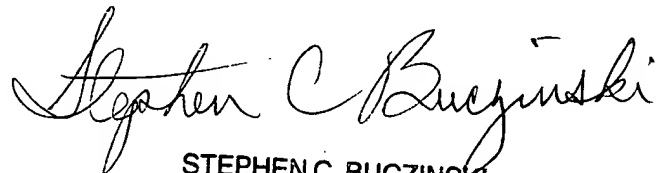
Claim 20 appears to relate to patented claim 7 for broadening. However, due to the breadth of claim 20 it is not clear that recapture has not occurred, since the "making a subjective evaluation" is not clearly stated as being done "during said system power standby mode" as

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required in these reissue claims as established by claim 7. This is notwithstanding details on line 6 where the "generating" is stated as occurring "during said system power standby mode", since this does not require the "evaluation" to have likewise occurred "during" the system power standby mode.

Claims 44 -58 can only be related to like process/method claims in the parent which all require "standby" mode as in claim 1 or at least "power standby" as in claims 7 and 8. Any reference to *apparatus* claim 4 as a basis for these reissue *process/method* claims can not provide a basis for recapture here. Also, arguments present in the Brief in the original application for claim 8 stated that the "power standby" mode was the point of novelty given that claim 8 did not otherwise include the cassette recorder control environment of the allowed claims. To have now deleted these features from the present reissue claims is considered to be recapture of surrendered subject matter.

6. Any inquiry concerning this communication should be directed to Stephen C. Buczinski at telephone number (703) 305-1835.


STEPHEN C. BUCZINSKI
PRIMARY EXAMINER